

2023:PHHC:134432
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51514-2023
Date of Decision:16.10.2023

Pardeep Kumar @ Happy

...Petitioner

vs.

State of Punjab

...Respondent

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. K.S Dhaliwal, Advocate with
Mr. Vicky Sharma, Advocate and
Mr. Parvesh Malik, Advocate
for the petitioner.

Mr. M.S. Bajwa, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the instant petition under Section 439 Cr.PC with a prayer to grant regular bail in case FIR No. 75 dated 20.07.2023 registered under Sections 22,61,85 of NDPS Act,(Section 29 of NDPS added later on) Police Station Julkan, District Patiala (Annexure P-1).
2. As per the case of the complainant, on 20.07.2023, a police party headed by ASI Nishan Singh was present at the crossing of bridge near Village Mehone on the road leading from Village Gharam to Village Devigarh for patrolling. At about 03:05 PM, a motorcycle was seen coming from the direction of Village Bagra, which was being driven by a young Hindu boy and a young Hindu boy was sitting behind him. On seeing the police party, the young boys panicked and tried to flee from the spot. However, their motorcycle developed some technical problem and the complainant along with other police officials apprehended both the boys and on enquiry by the police, they disclosed

their names as Mangal Singh @ Mangu son of Kaka Singh and Malkit Singh son of Nirmal Singh, both residents of Village Masingan, Police Station Julkan, District Patiala. The police party expressed the suspicion that they were carrying some contraband and after following the due process of law, the search was conducted. On search, 55 grams of intoxicant powder was recovered from them and the FIR in the present case was registered.

3. Learned counsel for the petitioner contends that the petitioner was not named in the FIR and has been nominated as an accused on the basis of the disclosure statement made by Mangal Singh and Malkeet Singh. Except the disclosure statements suffered by the co-accused, there was no legally admissible evidence against him and he was wrongly arrested by the police on 21.08.2023. He further contends that in the present case after completion of the investigation a final report under Section 173 Cr.P.C has already been presented before the competent Court and the charges are yet to be framed by the Trial Court.

4. On the other hand, learned State counsel has vehemently opposed the prayer made by learned counsel for the petitioner on the ground that the petitioner had supplied the contraband to both the main accused i.e Mangal Singh and Malkeet Singh and he does not deserve the concession of regular bail. He further contends that one more case under Section 406 IPC has already been registered against the present petitioner, however; he is on bail in this case.

5. I have heard the learned counsel for the parties and perused the record.

6. It is not in dispute that the petitioner was arrested in the present case on 21.08.2023 and even charge has not been framed against him so far.

Still further, no recovery was effected from the petitioner and his case was distinguishable from the case of his co-accused namely Mangal Singh and Malkeet Singh. Even the prosecution could not collect any further evidence against him, except the disclosure statement suffered by the co-accused.

7. Without commenting on the merits of the case, the present petition is allowed. The petitioner is ordered to be released on bail pending trial on his furnishing bail bonds and surety to the satisfaction of the concerned trial Court/ Duty Magistrate/Chief Judicial Magistrate.

16.10.2023
hitesh

(N.S.SHEKHAWAT)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No